HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO. 3736 OF 2007

BETWEEN:

The Director of A.P.,
Govt. Life Insurance,
Insurance Building, Hyderabad

.....Petitioner

And

B. Padmaja Lizzi & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Government Pleader for Services-II

30th April 2007

Per C.V. NAGARJUNA REDDY, J

This petition is directed against order dated 09.12.2006 vide

which the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') quashed recovery of specified amounts from respondent No.1 – Smt. P. Padmaja Lizzi and directed the petitioner herein to pay the insurance amount.

Shri P. Samuel (husband of respondent No.1), who was then working as Section Officer in the office of Divisional Forest Officer, Nirmal, Adilabad (respondent No.2), died on 25.02.2000. After the death of her husband, respondent No.1 applied for family pension and other retiral benefits. In his reply, respondent No.2 informed respondent No.1 that an amount of Rs.81,716/- was outstanding against her husband and the same is liable to be recovered from his pensionary benefits. Thereafter, the competent authority issued order No.01/FG/001806 dated 11.03.2002, wherein it was noted that a sum of Rs.58,100/- was payable to respondent No.1 towards death-cum-retirement gratuity, but after adjusting the same towards the outstanding dues, a sum of Rs.21,161/- was payable by her.

Respondent No.1 challenged the denial of pensionary benefits and insurance amount by filing an application under Section 19 of the Administrative Tribunals Act, 1985 (for short, 'the Act') which was registered as O.A.No.7653 of 2002. She pleaded that the death-cum-retirement gratuity payable to her constituted her property and the non-applicants were not entitled to withhold the same.

On notice, respondent No.2 filed counter-affidavit and reiterated that a sum of Rs.81,716/- was recoverable from late Shri P. Samuel. After considering the pleading of the parties and the arguments of their advocates, the Tribunal held that recovery of Rs.81,716/- from the pensionary benefits payable to respondent No.1 was totally unwarranted and that there was no justification to deny substantial portion of the insurance policy amount. In short, the Tribunal directed payment of Rs.52,348/- under serial No.1(a) and (b) and serial No.2 . The Tribunal also directed the insurance policy amount to be calculated and paid.

We have heard learned Government Pleader for Services-II.

Learned Government Pleader submitted that as the deceased employee failed to spend the amounts drawn by him for plantation works, the department was justified in recovering the unspent amount from out of the retirement benefits of the deceased employee. He submitted that the Tribunal was not at all justified in interfering with the decision taken by respondent No.2 to recover the outstanding dues from the pensionary benefits payable to respondent No.1. Learned Government Pleader also submitted that according to the procedure, it was incumbent upon the deceased employee to have obtained policy bond during his life time and that since it was not done, the petitioner was justified in not paying the full policy amount under the insurance policy.

We have given our thoughtful consideration to the submissions of the learned Government Pleader, but we have not felt persuaded to accept the same. It is not in dispute that as far as the amounts covered by items 1(a) and (b) and item No.2 are concerned, no proceedings were initiated against the deceased employee at any point of time and no recovery orders were passed. The petitioner was, therefore, not justified in recovering the alleged unspent amounts, because in the absence of any orders directing recovery of the said amounts, withholding of the amounts from DCRG can be considered as wholly unauthorized and arbitrary. As regards the insurance policy amount, the petitioner has not disputed the fact that a sum of Rs.125/- was recovered every month from 1995-96 onwards from the salary of the deceased employee. We are in total agreement with the Tribunal which held that the responsibility equally lies on the drawing officer and the Director of Insurance to make proper documentation and for issuance of appropriate policy bond and that the amount which was legitimately due under the policy cannot be denied on the technical ground. We are also in agreement with the Tribunal which held that the respondent in the O.A. could not justify the recovery of Rs.125/- and

Rs.150/- shown against item No.2, since no recovery orders were produced authorizing such a recovery.

In the result, the writ petition fails and is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.4760 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G.S. SINGHVI, CJ

30.04.2007
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